

Appl. No. 10/656,524
Atty. Docket No. CM2695
Amdt. Dated 12/01/2005
Reply to Office Action of 09/07/2005
Customer No. 27752

REMARKS/ARGUMENTS

Claims 1, 3, 4, 6 to 10, 17, and 19 to 25 are currently being considered. Claims 2, 5, 11 to 16 and 18 have been canceled without prejudice. Claim 1 has been amended to incorporate the limitations of canceled Claims 14, and 18. Claim 1 has also been amended to include the structuring agent limitations of Claim 17. Claim 1 has been amended to make it an allowable independent Claim as suggested by the Examiner. Claim 17 has been amended to remove the structuring agent limitations, which have been incorporated into Claim 1, on which Claim 17 depends.

Election of Species Requirement-Confirmation of Provisional Election made without Traverse of the Silicones of Claim 14 and Cationic Scavenger 4 of Claim 18

In the instant Office Action the Examiner has noted that Claims 1-25 are generic to a plurality of disclosed patentable distinct species comprising cationic silicones and scavenging agents. The Examiner then further noted that in a telephone conversation with Ms. Laura Grunzinger on July 7, 2005, a provisional election without traverse was made of the silicones of Claim 14 and cationic scavenger 4 of Claim 18. Applicants' are confirming this provisional election without traverse of the invention of the silicones of Claims 14 and cationic scavenger 4 of Claim 18.

Rejections Under 35 U.S.C. § 112 First paragraph

Claims 1 to 25 stand rejected under 35 USC 112 first paragraph as being nonenabling, by not including the limitations for the structuring agents of Claim 17 and the cationic scavengers of Claim 18 in independent Claim 1. Applicants have amended Claim 1 and incorporated therein the structuring agents of Claim 17. Applicants are also canceling Claim 18 and incorporating the limitations thereof into Claim 1. This means that Claim 1, and therefore dependant Claims 2 to 25, do now include the specific structuring agents of Claim 17 and the elected cationic scavengers of formula 4 of Claim 18 (now formula 1 in amended Claim 1). It is therefore respectfully submitted that Claims 1-25 are enabled under 35 USC 112 first paragraph and that this rejection should be withdrawn.

Rejections Under 35 U.S.C. § 112 Second paragraph

Claim 5 stands rejected under 35 USC 112 Second paragraph as being indefinite for failing to particularly and distinctly claim the subject matter of the invention. Specifically, the term "premix" lacks antecedent basis. By the amendments herein Claim 5 is canceled. It is

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therefore respectfully submitted that the rejection of Claim 5 is now moot and should be withdrawn.

Rejections Under 35 U.S.C. § 103

Claims 1-10 and 17-25 stand rejected under 35 U.S.C. § 103 (a) over EP 150,872 for reasons of record at page 4 of the Office Action. Applicants have amended Claim 1 to limit the claim to only the silicones of Claim 14. This means that Claim 1 now includes all the limitations of Claim 14, which was not rejected in the office action as being obvious in view of EP 150,872. It therefore logically follows that amended Claim 1 and Claims 2 to 10 and 17 to 25 which depend upon from Claim 1 are also not obvious in view of EP 150,872. It is therefore respectfully submitted that Claims 1-10 and 17-25 are not obvious in view of EP 150,872 and that this rejection should be withdrawn.

Allowable Claims

In paragraphs 12 and 13 in the Office Action it was noted that Claims 11-16 would be allowable if written in independent form, provided that the enablement rejection was overcome and the scavenger was limited to the elected species.

Based on this statement, Applicants have amended Claim 1 to the limitations of allowable Claim 14, as well as limiting the scavenger to the elected species. Applicants have also amended Claim 1 to include the structuring agents of original Claim 1, as requested by the Office Action. The result of this is that Claim 1 is essentially Claim 14 rewritten in independent form, with further amendments to include a scavenger limited to the elected species and enablement for the structuring agent.

Consequently, in light of the statements made in paragraph 12 and 13 of the Office Action, and the amendments made herein to Claim 1, it is respectfully submitted that pending Claims 1, 3, 4, 6 to 10, 17, and 19 to 25 are novel, non obvious and are in condition for allowance. Applicants therefore respectfully request that all pending rejections be withdrawn and these claims be passed to allowance.

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CONCLUSION

Applicants have made an earnest effort to place their application in proper form and to distinguish their invention from the applied prior art.

WHEREFORE, Applicants respectfully request entry of the amendments presented, reconsideration of this application, withdrawal of the rejection under 35 USC 112, withdrawal of the rejections under 35 U.S.C. §103, and allowance of Claims 1, 3, 4, 6 to 10, 17, and 19 to 25.

Respectfully Submitted,

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